

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH CARVER

Plaintiff,

v.

HENRY RICHARDS,

Defendant.

Case No. C05-5037RJB

ORDER ADOPTING REPORT
AND RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge J. Kelley Arnold (Dkt. 10) and Plaintiff's Response to R & R #10, and the remaining record, does hereby find and ORDER:

- (1) (A) This is not a class action lawsuit under FRCP 23, although plaintiff refers to a "class" in the Complaint (Dkt. 9).
- (B) This is not a suit for money damages. The Complaint (Dkt. 9) only requests injunctive and declaratory relief.
- (C) Plaintiff is, apparently, a member of the class formed in Turay v. Selig, C91-664RSM, and is, as a class member, represented by counsel in that case.
- (D) The issues plaintiff attempts to raise in his Complaint substantially overlap with issues raised in the Turay case. Insofar as these issues do overlap, they should be raised in Turay.
- (E) The Turay case is still open as is reflected in that file.


1 (F) Plaintiff's Complaint (Dkt. 9) does not comply with FRCP 8(a), which requires "a
2 short and plain statement of the claim showing that the pleader is entitled to relief,"
3 or FRCP 8(e), which requires that "each averment of a pleading shall be simple,
4 concise and direct." While "no technical forms of pleading . . . are required," and
5 while "all pleadings should be construed to do substantial justice," FRCP 8(e), it is
6 extremely difficult to figure out just what, if anything, plaintiff is complaining about
7 that is not within the scope of Turay and is covered within the scope of federal
8 jurisdiction. This is a sufficient basis, standing alone, to call for the dismissal of
9 Plaintiff's Complaint without prejudice.

10 (2) The Court adopts the Report and Recommendation.

11 (3) The complaint is DISMISSED WITHOUT PREJUDICE.

12 (4) The clerk is directed to send copies of this Order to plaintiff and to the Hon. J. Kelley
13 Arnold.

14 DATED this 13th day of May, 2005.

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17 Robert J. Bryan
18 U.S. District Judge
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